

FILED '11 JAN 21 07:00 USDJ-ORE

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

LACYELLE T. WHITE,

Petitioner,

vs.

BRIAN BELLEQUE,

Respondent,

LYDELL M. WHITE

Petitioner,

vs.

BRIAN BELLEQUE,

Respondent.

O R D E R  
Civ. No. 02-630-TC  
(Lead Case)  
Civ. No. 02-1453-TC  
(Consolidated case)

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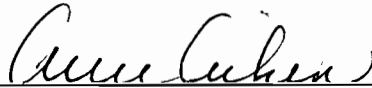
AIKEN, Chief Judge:

1 Magistrate Judge Coffin filed his Findings and  
2 Recommendation on October 21, 2010. The matter is now before me  
3 pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).  
4 When a party objects to any portion of the Magistrate's Findings  
5 and Recommendation, the district court must make a de novo  
6 determination of that portion of the Magistrate's report. 28  
7 U.S.C. § 636(b)(1)(B); McDonnell Douglas Corp. v. Commodore  
8 Business Machines, 656 F.2d 1309, 1313 (9th Cir. 1981), cert.  
9 denied, 455 U.S. 920 (1982).

10 Respondent has timely filed objections. I have, therefore,  
11 given the file of this case a de novo review. This case is  
12 exceedingly complex with a record that easily reaches eighteen  
13 inches high. Both counsel did an excellent job briefing this  
14 matter for Judge Coffin and for this court. I adopt Judge  
15 Coffin's thorough 24-page Findings and Recommendation (doc. 127)  
16 as both factually and legally sound. Therefore, I find that the  
17 Oregon Board of Parole and Post-Prison Supervision's ("board")  
18 application of the juvenile aggravated murder rules to  
19 petitioners violates the United States Constitution.  
20 Petitioners' applications for an amended writ of habeas corpus  
21 (docs. 120 in Civ. No. 02-1453-TC, and 112 in Civ. No. 02-630-TC)  
22 are granted on these grounds and petitioners' cases are remanded  
23 to the Oregon Board of Parole to: (1) allow petitioners to  
24 petition for review of their denial of parole after serving  
25 twenty years from the initial date of their incarceration on  
26 January 25, 1995; and (2) if relief is denied at the review  
27 hearing, the board shall allow petitioners to petition for  
28 subsequent review every two years.

1 IT IS SO ORDERED.

2 Dated this 18 day of January 2011.

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7 Ann Aiken  
8 United States District Judge  
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